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Patent Application
USSN 10/047,271
Atty Docket No. 8276-85048

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John Innis

For: OPTICAL DISC CARRIER

Serial No. 10/047,271

Filed: January 15, 2002

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)
)
) Group Art Unit: 3728

)
) Examining Attorney:
) Unknown
)
)

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OFFICE OF PETITIONS

PETITION TO ACCORD ORIGINAL FILING DATE TO SUBJECT APPLICATION

TO: Assistant Commissioner of Patents
Washington, D.C. 20231

Dear Sirs:

On January 15, 2002, applicant filed this continuation-in-part application.

Unfortunately, FIG. 3, which merely illustrated what was disclosed in the original application, was omitted.

A Notice of Omitted Item was issued and applicant replied to same by submitting omitted FIG. 3 and arguing that FIG. 3 did not contain new matter but merely conformed the drawings to the description.

Applicant also noted that in the Notice of Omitted Items there were three courses of action, I., II., and III. which applicant could take in response to the Notice of Omitted Items.

Course of Action I., required a petition and a petition fee which was based on a contention that the omitted item had in fact been deposited with the USPTO.

Course of Action II., required a petition and a petition fee and was based upon the supplying of the omitted item and accepting the date that such omitted item was filed in the USPTO as the filing date and required a supplemental oath or declaration.

Please note, that applicant did not file a petition or pay a petition fee or supply a supplemental oath or declaration as required by Course of Action I. or Course of Action II.

Course of Action III., was to do nothing and allow the Office to accept the application as originally filed.

This is the course of action applicant assumed the Office would take and at some point in time the Examiner would determine whether or not, as contended by applicant, FIG. 3 was not new matter but merely conformed the drawings to the specification.

This is the course of action that applicant assumed would be taken.

This course of action does not require a petition or petition fee or a supplemental oath or declaration.

Accordingly, the action by the Office of setting a new filing date for the application is in error.

When applicant discovered that a new filing date had been assigned to this application, applicant filed a Request for Corrected Filing Receipt explaining the above and submitted that if the Examiner found that FIG. 3 contained new matter that applicant was canceling FIG. 3 and corresponding description of FIG. 3 in the specification.

Now in response to that request, applicant has now received a "Response to Request for Corrected Filing Receipt" stating that a petition is required and a \$130.00 petition fee is required.

In view of the foregoing and previously filed papers, applicant submits that no petition fee is required since applicant followed Course of Action III.

Nonetheless, if a petition is required for correcting the filing date, then applicant requests that this paper be considered as a petition to correct filing date.

Furthermore, if a fee is required, please charge the \$130.00 petition fee to applicant's attorney's Deposit Account No. 23-0920.

In any event, applicant requests that the request for corrected filing receipt or this petition to correct filing date be acted upon.

Respectfully submitted,

Thomas R. Vigil
Thomas R. Vigil
Reg. No. 24,542

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Dated: 4/2/03

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I hereby certify that this paper is being deposited with the United States Postal Service postage prepaid, as first class mail in an envelope addressed to: Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202 on this date

Date 4/2/2003 Registration No. 24,542
Attorney for Applicant (s)



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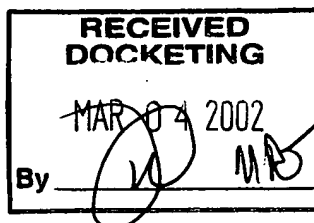
APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/047,271	01/15/2002	John Innis	20206

CONFIRMATION NO. 9876

FORMALITIES LETTER



OC000000007525011

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 c/o Welsh & Katz, Ltd.
 120 South Riverside Plaza
 Chicago, IL 60606-3612


Date Mailed: 02/25/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 3 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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A copy of this notice MUST be returned with the reply.

Forney A.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

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